

REMARKS

Claims 1-20 remain pending in this application.

The Examiner rejected claims 1-7, 10-15 and 18-19 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,966,665 (*Taki*) in view of U.S. Patent No. 4,654,859 (*Kung*) and U.S. Patent No. 5,408,506 (*Mincher*). Applicant respectfully traverses this rejection.

Applicant respectfully asserts that *Taki*, *Kung*, and *Mincher* do not disclose all of the elements of claims 1-11. In fact, *Mincher* teaches away from the “time period” use of *Taki* (which is described in more detail below). *Taki* does not disclose selecting a first time frame, selecting an initial frequency using a VCO, and multiplying the initial frequency by a frequency multiplier to select a second frequency during a time period within the first time frame, as called for by claims 1 and 11. Furthermore, *Taki* does not disclose selecting an initial frequency using a VCO, as called for by claims 1 and 11 and fully supported by the Specification.

Taki discloses a hopping counter (34) that is incremented one value every time a new frequency hop phase is entered. When the value of the hopping counter reaches a predetermined maximum value, the hop number is reset to zero. The hop number of *Taki* is used as an index parameter to read hop frequency data from a hopping table 36, and the hop frequency data is output as an output signal (note col. 6, lines 26-32). However, *Taki's* system fails to teach selecting an initial frequency by a voltage controlled oscillator of the first and second communication units and multiplying the initial frequency by a frequency multiplier to select a second radio frequency during a time period within the first time frame as defined by the independent claims of the present invention.

The Examiner uses **Kung** to provide a VCO and a frequency multiplier and states in the Advisory Action that the structure of the frequency multiplier is well known to the person in the art. However, merely adding the disclosure of a VCO and a frequency multiplier to **Taki** does not provide selecting an initial frequency using a VCO (as called for by claims 1 and 11), nor does the combination (of **Taki** and **Kung**) provide selecting a second frequency by multiplying the initial frequency during a time period within the first time frame, and subsequently performing communications in a second time frame, as called for by claims 1 and 11. In other words, **Taki** is missing more than the elements of a VCO and frequency multiplication, therefore, adding the disclosure of **Kung** would not make up for this deficit.

Kung does not provide the selecting and initial frequency using a VCO. **Kung** also does not provide a second frequency by multiplying the initial frequency during a time period within the first frame. **Kung** discloses a channel hopping system that provides a VCO output that is divided (not multiplied) by factor (M) to produce an input reference frequency for a phase locked loop (see col. 3, lines 28-34, Figure 1). The mere mention of multiplying a frequency in **Kung** does not disclose multiplying an initial frequency to produce a second frequency during a first time frame, as called for by claims 1 and 11. Therefore, contrary to the Examiner's assertions in the Advisory Action, **Kung** teaches away from the multiplying of the initial frequency, as called for by claims 1 and 11. Neither **Taki**, **Kung**, nor their combination, disclose, teach, or obviate selecting an initial frequency using a VCO, nor does the combination provide selecting a second frequency by multiplying the initial frequency during a time period within the first time frame, and subsequently performing communications in a second time frame, as called for by claims 1 and 11.

The Examiner uses *Mincher* to provide the “during the time period” use that is lacking in *Taki* and *Kung*. However, *Mincher* actually teaches away from the use of the time period that the Examiner asserts could have been used by one skilled in the art to use with *Taki* to read upon the claims of the present invention. However, *Mincher* discloses that the time period is a dead time period and that nothing is to be done by the communication system during this time period. This is opposite to what the Examiner says is needed to combine with *Taki* to read upon the claims of the present invention. The Examiner asserted that the time period of *Mincher* would be used by one skilled in the art to combine with *Taki* to select a new frequency. However, *Mincher* teaches that the dead time period is a time period to allow existing communications to be completed, and not for performing tasks. Therefore, one of ordinary skill in the art would not combine *Mincher* with *Taki* to perform any tasks during the dead time period. Hence, the deficit of *Taki* and *Kung* would not be made-up for by *Mincher*.

However, even if the time period of *Mincher* were used to perform tasks, the combination of *Mincher* and *Taki* would still not disclose or make obvious all of the claims of the present invention, since neither prior art discloses (alone or in combination) various elements of claims 1 and 11, such as multiplying the initial frequency to select a second radio frequency during a time period within the first time frame. Therefore, neither *Taki*, *Kung*, *Mincher*, nor their combination, disclose or make obvious all of the elements of claims 1 and 11 of the present invention.

Additionally, without improper hindsight, one of ordinary skill in the art would not combine *Taki* and *Mincher*. *Taki* generally deals with a base unit communicating with a plurality of handsets, while *Mincher* generally deals with a distributed time synchronization

system for a LAN system for computers, displays, and the like. One of ordinary skill in the art would not seek out the "time period" reference in *Mincher*, and combine it with the disclosure of *Taki* to make obvious all of the elements of claims 1 and 11 of the present invention. It would be improper hindsight reasoning to promote an argument for combining *Mincher's* time period reference to the disclosure of *Taki* to make obvious the claims of the present invention. However, even if *Mincher, Kung, and Taki* were combined, all of the elements of claims 1-11 would still not be disclosed or make obvious. Therefore, claims 1 and 11 are allowable for at least the reasons cited above.

Independent claims 1 and 11 are allowable for at least the reasons cited above. Additionally, dependent claims 2-10 and 12-20, which depend from independent claims 1 and 11, respectively, are also allowable for at least the reasons cited above.

The Examiner rejected claim 20 under 35 U.S.C. § 103(a) as being unpatentable over *Taki* in view of U.S. Patent No. 5,590,410 (*Deutsch*). Applicant respectfully traverses this rejection.

Applicant respectfully submits that claim 20 either directly or indirectly depends from independent claim 11 of the present invention. As described above, *Taki* does not disclose selecting a second frequency by multiplying the initial frequency during a time period within the first time frame, and subsequently performing communications in a second time frame, as called for by claim 11. Also, as described above, *Kung* does not provide these elements in claim 11, and thereby in claim 20, which are not provided by *Taki*. Adding the disclosure of *Deutsch*, which the Examiner cites for providing an external telephone circuit as the PSTN, does not make up for this deficit. In other words, even adding the disclosures of *Kung* and *Deutsch* to *Taki*

would still not provide all of the elements of claim 20. Therefore, for at least the reasons cited above, claim 20 is allowable.

Applicant further notes and appreciates the Examiner's indication that claims 8, 9, 16, and 17 of the present invention include allowable subject matter.

In light of the arguments presented above, Applicant respectfully asserts that claims 1-20 are allowable. In light of the arguments presented above, a Notice of Allowance is respectfully solicited.


If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4069 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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